

# BEST AVAILABLE COPY

JUL 05 2005 11:46 FR FINNEGAN HENDERSON 617 452 1666 TO 6333014130011\*00 P.13

PATENT  
Customer No. 22,852  
Attorney Docket No. 01413.0011-00000

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Nancy E. MILLER et al. )  
Application No.: 09/408,716 ) Group Art Unit: 2676  
Filed: September 30, 1999 ) Examiner: Anthony J. BLACKMAN  
For: METHOD AND APPARATUS FOR ) Confirmation No.: 4370  
DISPLAYING DISPARATE TYPES )  
OF INFORMATION USING AN )  
INTERACTIVE SURFACE MAP )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**DECLARATION OF JEFFREY D. SAFFER, NANCY E. MILLER,  
RANDALL E. SCARBERRY, SCOTT D. DECKER, AND SEAN J. ZABRISKIE  
UNDER 37 C.F.R. 51.131**

1. We, the undersigned, are joint inventors of all claims in the above-identified application and the subject matter described and claimed therein.
2. We have been advised that the United States Patent and Trademark Office in an Office Action dated March 22, 2006 rejected certain claims of the above-identified application over U.S. Patent No. 6,738,502 to Coleman (the Coleman patent) as prior art. The Coleman patent was filed on June 2, 2000 and claims priority to provisional application No. 60/137,458, filed on June 4, 1999.
3. We have been further advised that the United States Patent and Trademark Office in an Office Action dated March 22, 2005 rejected certain claims of the above identified application over U.S. Patent No. 6,707,454 to Barg (the Barg patent) as prior art. The Barg patent was filed on October 12, 1999 and claims priority to provisional application No. 60/141,857, filed on July 1, 1999.
4. Prior to June 4, 1999, we had completed in the United States the invention described and claimed in the above-identified application as evidenced by the following.
5. Prior to June 4, 1999, having earlier conceived a method of interactively displaying a set of records and their associated attributes as currently claimed, we had

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implemented several prototypes of the software for performing the method. The initial implementation was called CorScope. Its functionality was proven using proprietary data provided to us by Johnson & Johnson (J&J). The results of the software trials were presented to J&J prior to June 4, 1999 at a meeting that was held at the J&J facility in La Jolla, California, in which Mr. Jackson Wan, the Head of J&J Bioinformatics, and others participated.

6. Several slides from the J&J presentation are shown in Exhibit A. Slide 1 is the title slide, in which the date of the presentation was blanked out. The deleted date is prior to June 4, 1999. Slide 2 is another slide from the presentation, showing a sample screenshot, wherein two visual representations (including a "galaxy view") of a plurality of the records in the set are simultaneously displayed. Slide 3 is another slide from the presentation, showing a partial screenshot of two simultaneous visual representations, wherein the first representation (*top right*) is a surface map of the set of records with (1) graphic images (i.e., color-coded blocks), representing a plurality of attributes associated with each record in the set, arranged along a first dimension, and (2) the records, represented by a collection of graphic images, arranged along a second dimension; and the second representation (*bottom right*) were displayed to a user simultaneously. The software also allowed receiving input from a user selecting a subset of the records from the first surface map, and altering the second visual representation to highlight the selected subset. All other functionalities and/or features currently claimed were either present in the software or are obvious variants and adaptations thereof.

7. The undersigned further declare that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

By:

Date:

Jeffrey D. Saffer

Nancy E. Miller

Randall E. Scarborough

Sean D. Decker

Sean J. Zaborski

6/30/05

6/29/05

USPN 09/408,716

Attorney Docket No. 01413.0011-00000

implemented several prototypes of the software for performing the method. The initial implementation was called CorScape. Its functionality was proven using proprietary data provided to us by Johnson & Johnson (J&J). The results of the software trials were presented to J&J prior to June 4, 1999 at a meeting that was held at the J&J facility in La Jolla, California, in which Mr. Jackson Wan, the Head of J&J Bioinformatics, and others participated.

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By:

Date:








